

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JULY 12, 2006**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ABEYANCE - VAR-11270 - APPLICANT: BARRY ROSS -  
OWNER: KATHLEEN S. MAYERS**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE JUNE 7, 2006 CITY COUNCIL  
MEETING AT THE REQUEST OF THE APPLICANT.***

**\*\* CONDITIONS \*\***

The Planning Commission (5-1 vote) and staff recommend DENIAL.

**Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-11197).
2. This Variance shall expire two years from the date of final approval, unless it is exercised or an Extension of Time is granted by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**EXECUTIVE SUMMARY**

This Variance addresses Proximity Slope Residential Adjacency Setback requirements. The northern boundary of the proposed building has a 29-foot setback. The 3:1 slope calculation would require a setback of 51 feet. This deficiency is self-imposed through the applicants' design choices and overbuilding of the site; therefore, denial of this application is recommended.

**BACKGROUND INFORMATION**

***A) Related Actions***

- 03/23/06      The Planning Commission recommended denial of a companion Site Development Plan Review SDR-11197 concurrently with this application.
- 03/23/06      The Planning Commission withdrew without prejudice a companion application VAR-11531.
- 03/23/06      The Planning Commission voted 5-1 to recommend DENIAL (PC Agenda Item #27/ng).

***B) Pre-Application Meeting***

- 12/09/05      A pre-application conference was held and elements of a Site Development Plan Review were discussed. It was noted that the project would require Waivers and a Variance.

***C) Neighborhood Meetings***

A neighborhood meeting is not required for a Variance. A neighborhood meeting was suggested by staff as the proposed addition will require a Variance from Residential Adjacency Standards, but none was held.

**DETAILS OF APPLICATION REQUEST**

***A) Site Area***

Net Acres:            2.5

***B) Existing Land Use***

Subject Property: Office  
North:                Single-Family Residential  
South:                Single-Family Residential  
East:                  Office  
West:                  Utility

**C) *Planned Land Use***

Subject Property: SC (Service Commercial)  
North: L (Low Density Residential)  
South: L (Low Density Residential)  
ML (Medium-Low Density Residential)  
East: SC (Service Commercial)  
West: SC (Service Commercial)

**D) *Existing Zoning***

Subject Property: P-R (Professional Office and Parking)  
North: R-1 (Single-Family Residential)  
South: R-1 (Single-Family Residential)  
R-PD6 (Residential Planned Development – 6 Units Per Acre)  
East: P-R (Professional Office and Parking)  
West: R-1 (Single-Family Residential)

**E) *General Plan Compliance***

The site is designated as SC (Service Commercial) under the Southeast Sector Plan of the General Plan. The Service Commercial category is not consistent with the P-R (Professional Office and Parking) Zoning District. The situation was created when the P-R (Professional Office and Parking) and O (Office) Districts were separated and the General Plan designation was not changed to reflect the Zoning District inconsistency. The City of Las Vegas intends to sponsor a General Plan Amendment to an O (Office) land use designation at a future date to make the General Plan and Zoning District consistent on this and the neighboring property to the east.

| <b>SPECIAL DISTRICTS/ZONES</b>                    | <b>Yes</b> | <b>No</b> |
|---|------------|-----------|
| <b>Special Area Plan</b>                          |            | <b>X</b>  |
| <b>Special Overlay District</b>                   |            | <b>X</b>  |
| <b>Trails</b>                                     | <b>X</b>   |           |
| <b>Rural Preservation Neighborhood</b>            |            | <b>X</b>  |
| <b>Development Impact Notification Assessment</b> |            | <b>X</b>  |
| <b>Project of Regional Significance</b>           |            | <b>X</b>  |

**Trails**

A pedestrian path is required along Oakey Boulevard. The site is currently providing for this path and is in compliance with this standard.

## ANALYSIS

### A) *Zoning Code Compliance*

#### A1) Development Standards

Pursuant to Title 19.08, the following Development Standards apply to the subject proposal:

| <b>Standards</b>     | <b>Required P-R</b>          | <b>Provided</b> | <b>Compliance</b> |
|----------------------|------------------------------|-----------------|-------------------|
| Min. Lot Width       | 60 Feet                      | 256 Feet        | Y                 |
| Min. Setbacks        |                              |                 |                   |
| • Front              | 20 Feet                      | 32 Feet         | Y                 |
| • Side               | 5 Feet                       | 21 Feet         | Y                 |
| • Corner             | 15 Feet                      | 35 Feet         | Y                 |
| • Rear               | 15 Feet                      | 15 Feet         | Y                 |
| Max. Lot Coverage    | 50 %                         | 27 %            | Y                 |
| Max. Building Height | 2 Stories / 35 Feet          | 17 Feet         | Y                 |
| Trash Enclosure      | 50 Feet from a protected use | 54 Feet         | Y                 |
| Loading Space        | 2 15' X 25'                  | 2               | Y                 |
| Mech. Equipment      | Screened                     | Screened        | Y                 |

The site is in compliance with Title 19.08 Development Standards.

#### A2) Residential Adjacency Standards

Pursuant to Title 19.08, the following Residential Adjacency Standards apply to the subject proposal:

- a) Proximity slope. The proposed 10,000 square-foot building would have a maximum height of 17 feet. This requires a Residential Adjacency setback of 51 feet per the 3:1 slope requirement. The proposed development has a setback of 29 feet in the side yard area that is affected by this standard. This deficiency would be permitted with the approval of companion Variance (VAR-11270).

### B) *General Analysis and Discussion*

This Variance addresses Proximity Slope Residential Adjacency Setback requirements. The northern boundary of the proposed building has a 29-foot setback. The 3:1 slope calculation would require a setback of 51 feet. This deficiency is self-imposed through the applicants' design choices and overbuilding of the site; therefore, denial of this application is recommended.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship due to the applicants design choices. Alternative design with less square footage would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## **PLANNING COMMISSION ACTION**

Note: Condition to be added to state sole Variance.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT** 3

**SENATE DISTRICT** 11

**NOTICES MAILED** 439 by City Clerk

**APPROVALS** 0

**PROTESTS** 2